

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6697

BILL NUMBER: SB 382

NOTE PREPARED: Dec 28, 2011

BILL AMENDED:

SUBJECT: Fraudulent Financing Statements and Liens.

FIRST AUTHOR: Sen. Glick

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that certain individuals may file a motion for judicial review of a financing statement to determine if the document is fraudulent. It allows a court to order certain actions if the court finds a financing statement is fraudulent.

The bill makes it a Class D felony for a person to knowingly or intentionally file a fraudulent financing statement to perfect a security interest. It makes it a Class C felony for a person to file a financing statement for the purpose of hindering, harassing, or wrongfully interfering with another person.

This bill also makes it a Class D felony for a person to file a false lien or a false encumbrance against a public servant's real or personal property. It makes it a Class C felony if the person who commits the offense has a prior unrelated conviction.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Secretary of State (SOS):* This bill requires the SOS to create and post on their website a form to assist an individual in filing a motion for judicial review of a financing statement. The SOS's existing level of resources is sufficient to implement this provision.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances.

Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical

care, food, and clothing is approximately \$3,318 annually, or \$9.09 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony or a Class C felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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